

FILED

IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ MAY 29 2019 ★

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK BROOKLYN OFFICE

UNITED STATES OF AMERICA,

Petitioner,

v.

HINDY KORN,

Respondent.

MISC 19-1419

GARAUFIS, J.

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

Petitioner, the United States of America, on behalf of the Internal Revenue Service, petitions the Court for an order enforcing the IRS administrative summonses served on the respondent, Hindy Korn. In support, the United States alleges as follows:

1. Jurisdiction over this matter is conferred upon the Court by 26 U.S.C. §§ 7402(b) and 7604(a) and by 28 U.S.C. §§ 1340 and 1345.

2. Respondent Hindy Korn resides within the boundaries of the Eastern District of New York and conducts business within the Eastern District of New York.

3. John Hahn is a Revenue Agent of the Internal Revenue Service, employed in the Small Business/Self-Employed Division of the Office of the Area Director of the Internal Revenue Service, 1568 52nd St., Brooklyn, NY 11219-3909. See Hahn Declaration, Exhibit A ¶ 1.

4. In his capacity as an IRS Revenue Agent, Mr. Hahn is authorized to issue IRS summonses pursuant to 26 U.S.C. § 7602, 26 C.F.R. § 301.7602-1, and Internal Revenue Service Delegation Order 25-1.

5. Revenue Agent Hahn is conducting an examination into the tax liability, the collection of the tax liability, or any offense connected with the tax liability of Hindy Korn for the tax period ending December 31, 2014. *See Ex. A ¶ 2.*

6. The Internal Revenue Service has received information indicating that Hindy Korn has interests in foreign financial institutions. *See Ex. A ¶ 3.*

7. Ms. Korn has been asked numerous times to identify and produce documentation of any foreign financial accounts she has an interest in. *See Ex. A ¶ 4.* She has failed to comply. *Id.*

8. As part of the above-described examination, on January 29, 2018, Revenue Agent Hahn issued, in accordance with 26 U.S.C. § 7602, an IRS administrative summons, IRS Form 2039, to give testimony and to produce for examination books, papers, records or other data as described in said summons (the “Summons”). *See Ex. A ¶ 7.* The summons is attached as Exhibit B.

9. The Summons required Ms. Korn to produce, among other things, records related to foreign financial accounts in which she had an interest from January 1, 2011, to December 31, 2016. *See Exhibit B.*

10. Revenue Agent Hahn served a copy of the Summons on Hindy Korn by taping a copy of the summons to the door at her last and usual place of abode. *See Ex. A ¶ 6, Ex. B.*

11. The Summons directed Hindy Korn to appear and testify before Revenue Agent Hahn on March 1, 2018, at 290 Broadway, 14th Floor, New York, New York 10007, and produce for examination books, papers, records, or other data as described in the summons. *See Ex. B.*

12. On March 1, 2018, Hindy Korn appeared at the appointed place but failed to produce any of the documents requested by the Summons. *See Ex. A ¶ 7.* In response to every question asked, Ms. Korn invoked her Fifth Amendment right not to testify or to produce documents. *Id. ¶ 7.*

13. In this Petition, the United States is only seeking production of documents in response to the Summons, not testimony.

14. The books, papers, records, and other data sought by the Summons are not in the possession of the IRS. *See Ex. A ¶ 8.*

15. The books, records, papers, and other data sought by the Summons may be relevant to properly investigating the tax liability of Hindy Korn for the tax period ending December 31, 2014. *See Ex. A ¶ 12.*

16. There is no “Justice Department referral,” as that term is described in Section 7602(d)(2) of the Internal Revenue Code, in effect with respect to Hindy Korn for the year under examination. *See Ex. A ¶ 13.*

17. All administrative steps required by the Internal Revenue Code for the issuance of the summonses have been taken. *See Ex. A ¶ 14.*

18. The Declaration of John Hahn, attached hereto as Exhibit A, provides the necessary showing for enforcement of the summons by this Court. *See United States v. Powell, 379 U.S. 48, 57-58 (1964)* (the United States establishes its *prima facie* case for summons enforcement by showing that the four “*Powell* factors” have been met: (1) “that the investigation will be conducted pursuant to a legitimate purpose”; (2) “that the inquiry may be relevant to that purpose”; (3) “that the information is not already within the [United States’] possession”; and,

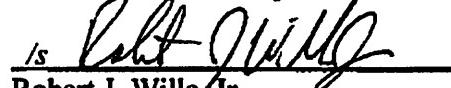
(4) "that the administrative steps required by the [Internal Revenue] Code have been followed").

WHEREFORE, petitioner, the United States of America, seeks the following relief:

- A. That this Court enter an order directing the respondent, Hindy Korn, to show cause in writing, if any, why he should not comply with the Summons;
- B. That this Court enter an order directing the respondent, Hindy Korn, to obey the Summons by producing the summoned records to Revenue Agent John Hahn or any other proper agent or employee of the Internal Revenue Service, at such time and place as may be fixed by Revenue Agent Hahn or any other proper agent or employee of the Internal Revenue Service;
- C. That the United States recover its costs in this action and,
- D. That the Court grant such other and further relief as is just and proper.

Respectfully submitted,

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Tax Division, US Department of Justice



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Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
Petitioner,) Case No.
v.)
HINDY KORN,)
Respondent.)

DECLARATION OF JOHN HAHN

I, John Hahn, declare:

1. I am a duly commissioned Revenue Agent of the Internal Revenue Service, employed in the Small Business/Self-Employed Division of the Office of the Area Director of the Internal Revenue Service, 1568 52nd St, Brooklyn, NY 11219-3909. I make this declaration based on personal knowledge or information provided to me in the course of my employment.

2. In my capacity as a Revenue Agent, I am conducting an investigation for the purpose of inquiring into the tax liability, the collection of the tax liability, or any offense connected with the tax liability or the collection of the tax liability of Hindy Korn for the tax period ending on December 31, 2014.

3. The Internal Revenue Service has received information indicating that Hindy Korn has interests in foreign financial institutions.

4. Ms. Korn has been asked numerous times to provide documentation of foreign financial accounts she has an interest in but has failed to comply.

5. As part of the above-described examination, on January 29, 2018, I issued, in accordance with 26 U.S.C. § 7602, an IRS administrative summons, IRS Form 2039, to give

testimony and to produce for examination books, papers, records or other data as described in said summons (the "Summons"). The Summons is attached hereto as Exhibit B.

6. I served a copy of the Summons on Hindy Korn by taping a copy of the summons to the door at the last and usual place of abode of Hindy Korn, as evident in the certificate of service on the reverse side of the summons. I also gave notice by certified mail to the last known address of Hindy Korn.

7. On March 1, 2018, Hindy Korn appeared at the appointed place but failed to produce any of the documents requested by the Summons. In response to every question asked, Ms. Korn invoked her Fifth Amendment right not to testify or to produce documents.

8. The books, papers, records, and other data sought by the Summons are not in the possession of the IRS.

9. The books, records, papers, and other data sought by the Summons may be relevant to properly investigating the tax liability of Hindy Korn for the tax period ending December 31, 2014.

10. There is no "Justice Department referral," as that term is described in Section 7602(d)(2) of the Internal Revenue Code, in effect with respect to Hindy Korn for the year under examination.

11. All administrative steps required by the Internal Revenue Code for the issuance of the summonses have been taken.

12. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this ____ day of May 2019 in Brooklyn, New York.



John W. Hahn
Internal Revenue Agent # 1000261218

Exhibit B



Summons

In the matter of Hindy Korn, 1568 52nd Street Brooklyn New York

Internal Revenue Service (Division): SBSE Group 1312

Industry/Area (name or number): Exam North Atlantic, Area 1

Periods: Periods ending December 31, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016

The Commissioner of Internal Revenue

To: Hindy Korn

At: 1568 52nd Street Brooklyn, New York

You are hereby summoned and required to appear before John Hahn, Revenue Agent ID 0261218

an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

As per attached rider

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

Internal Revenue Service 290 Broadway New York, New York, 10007 SBSE Group 1317 (212) 436 1869

Place and time for appearance at 290 Broadway 14th floor New York, New York 10007



on the 1st day of March, 2018 at 10 o'clock A m.
Issued under authority of the Internal Revenue Code this 29 day of January, 2018.

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 2039 (Rev. 10-2010)
Catalog Number 21405J

Signature of issuing officer

Signature of approving officer (if applicable)

Revenue Agent

Title

Group Manager

Title

Original — to be kept by IRS



Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date	Time
<u>1/29/19</u>	<u>9:55</u>

- How Summons Was Served
1. I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
 2. I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): Hinday Korn
 3. I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: Hinday Korn
1568 52nd Street Brooklyn, New York

Signature	Title
<u>John H. Korn</u>	<u>Revenue Agent</u>

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine whether or not records of the business transactions or affairs of an identified person have been made or kept.
- I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: 1/29/19 Time: 12:00Name of Noticee: Hinday KornAddress of Noticee (if mailed): 1568 52nd Street Brooklyn, NY

- How Notice Was Given
- I gave notice by certified or registered mail to the last known address of the noticee.
 - I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any).
 - I gave notice by handing it to the noticee.
 - In the absence of a last known address of the noticee, I left the notice with the person summoned.
 - No notice is required.

Signature	Title
<u>John H. Korn</u>	<u>Revenue Agent</u>

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature	Title

1. A copy of your tax returns for taxable years 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 with accompanying schedules, workpapers and any other documents/information used in the preparation of your tax returns.
2. Documentation for all non-taxable income that you received during taxable years ended December 31, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 including, but not limited, to loans, gifts, and any type of tax-exempt income.
3. All records created, obtained, and or maintained from January 1, 2011 through December 31 2016 that are in your care, custody, or control relating to all bank securities, or other types of financial accounts in any foreign country in which you have (or had) a present or future financial interest, legal interest, beneficial ownership interest, or over which you have signature or other authority.
4. All records created, obtained, and or maintained, including but are not limited, to following:
 - i. Account application (regardless of date);
 - ii. Monthly or periodic statements;
 - iii. Performance reports;
 - iv. Wire transfer authorizations and confirmations;
 - v. Deposit slips and deposited items;
 - vi. Credit and debit memos and advices;
 - vii. Canceled checks;
 - viii. Passbooks;
 - ix. Certificate of deposit;
 - x. Letters of credit;
 - xi. Money orders;
 - xii. All correspondence;
 - xiii. Directions given to the financial institution on investment strategies and diversification;
 - xiv. Authorizations and confirmations on specific trades;
 - xv. Substantiation of basis for all investments held in the accounts;
 - xvi. All memorandum files maintained by each bank reflecting communications with yourself or anyone on your behalf;
 - xvii. All documents verifying the origin of funds used to open the accounts or deposited into the account (regardless of date);
 - xviii. Signature cards (regardless of date); and
 - xix. Substantiation of expenses associated with the account.

For each account, produce the "Know Your Customer Account" information given to, and maintained by the bank, or by you or on your behalf, including but not limited to, all account set up documents (regardless of date), such as signature cards, opening deposit slips, passport copies, certificates of beneficial ownership, letters of reference, certificates of clean funds and/or other sources of Anti-Money Laundering documentation.

a) For each certificate of deposit, time deposit or equivalent account, produce all statements reflecting the purchase, earnings, basis, redemption and disposition of the deposit account.

b) For all transfers of funds between any and all bank accounts and/or financial accounts, produce the following:

- (a) List of transfers;
- (b) All documents showing the source of the funds transferred;
- (c) All documents showing the deposits of funds transferred; and
- (d) Complete copies of all advice memos, correspondence or other directions the taxpayer sent or received.

5. All periodic bank statements, or similar documents, for each account identified in response to Request 1, above, for the period of time from January 1, 2008 through December 31, 2016.

6. Copies of all documents pertaining to foreign business entities, such as partnerships, corporations, and their foreign equivalents, in which you have (or had) legal, financial, or beneficial interest during the period of time from January 1, 2008 to December 31 2016. Include, without limitations, formation documents, financial books and records of each entity, financial and tax reporting and all written (including electronic) communications between you and other persons relating to the purpose, operations, and termination of each entity.

7. Copies of all financial and tax reporting for any foreign business entity (as described above in Question 6.) including, but not limited to, all Forms 5471 filed during taxable years ended December 31, 2008, 2009, 2010 and 2011, 2012, 2013, 2014, 2015, 2016.